

APPEAL NO. 022982  
FILED JANUARY 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 23, 2002. The hearing officer determined that the respondent (carrier) waived the right to contest compensability of the claimed injury by not timely contesting the injury; that the appellant (claimant) sustained a compensable injury on \_\_\_\_\_; that the date of injury was \_\_\_\_\_; that the claimant had disability as a result of the alleged injury from May 27 through July 9, 2001; that the carrier is not relieved from liability because of the claimant's failure to timely notify the employer because the carrier "waived that issue"; and that the carrier is not relieved of liability because of the claimant's failure to timely file a claim for compensation with the Texas Workers' Compensation Commission (Commission) within one year of the injury. The claimant appeals, contending that his date of injury was May 9, 2001, that he timely reported the injury to his employer and that he timely filed his claim with the Commission. The carrier responds pointing out that the disability determination has not been appealed and otherwise urging affirmance. We note that in addition to the disability determination not being appealed, the determinations that the claimant sustained a compensable injury and that the carrier waived the right to contest the compensability of the claim have not been appealed either and those determinations have become final in accordance with Section 410.169.

DECISION

Affirmed.

The hearing officer found that the claimant filed his claim with the Commission on July 24, 2001, which is within one year of the date of injury, and that although the claimant failed to timely report his injury to his employer, the carrier "waived that issue" by failing to timely contest the compensability of the claim. The carrier does not appeal these findings. The claimant purports to appeal them, but because these findings are favorable to the claimant, the claimant is not aggrieved by these findings and has no basis to appeal them. See Section 410.251. Moreover, we have held that when a carrier does not timely dispute the compensability of a claim it cannot defeat the claim by offering a defense that the claimant did not give timely notice to the employer or that the claimant failed to file the claim within one year with the Commission. See Texas Workers' Compensation Commission Appeal No. 022091-s, decided October 7, 2002.

Further, the hearing officer determined that the date of the injury is \_\_\_\_\_. Conflicting evidence was presented at the CCH on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the

evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **EAGLE PACIFIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Roy L. Warren  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge